

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NEW ERA CAP COMPANY, INC.,

Plaintiff,

v.

ORDER
06-CV-391S

PRINZ ENTERPRISES LLC and
ERICK B. PRINZ,

Defendants.

1. On August 3, 2007, Defendants filed a Motion to Change Venue. (See Docket No. 33.) On September 6, 2007, Plaintiff filed a Motion to Strike Defendants' Reply Affidavit. (Docket No. 48.) The parties briefed the motions, which were taken under advisement by the Honorable Hugh B. Scott, United States Magistrate Judge, without oral argument. On February 28, 2008, Judge Scott filed a Decision and Order granting Defendants' Motion to Change Venue and denying Plaintiff's Motion to Strike. (Docket No. 50.)

2. On March 14, 2008, Plaintiff filed Objections to Judge Scott's Decision and Order. (Docket No. 52.) Defendants filed a memorandum in opposition to Plaintiff's Objections on March 28, 2008. (Docket No. 54.) Plaintiff filed a reply memorandum on April 4, 2008. (Docket No. 55.) For the reasons that follow, Plaintiff's Objections are denied.

3. Pursuant to 28 U.S.C. § 636(b)(1)(A), a magistrate judge may, with certain exceptions, hear and determine any pretrial matter pending before the court. The magistrate judge's order on such a pretrial matter will be reconsidered by the district judge only when it has been established that it is clearly erroneous or contrary to law. See 28

U.S.C. § 636(b)(1)(A). Having reviewed Judge Scott's Decision and Order and Plaintiff's Objections thereto, this Court finds no cause to disturb Judge Scott's decision. Plaintiff has not established that Judge Scott's decision is clearly erroneous or contrary to law. Accordingly, this Court will deny Plaintiff's Objections and direct that venue be transferred to the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. § 1404(a).

IT HEREBY IS ORDERED, that Plaintiff's Objections to Judge Scott's Decision and Order (Docket No. 50) are DENIED.

FURTHER, that Judge Scott's Decision and Order (Docket No. 50) is AFFIRMED in its entirety.

FURTHER, that Defendant's Motion to Change Venue (Docket No. 33) is GRANTED.

FURTHER, that this case shall be transferred to the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. §1404(a).

FURTHER, that Plaintiff's Motion to Strike (Docket No. 48) is DENIED.

FURTHER, that the Clerk of the Court shall transfer this action to the United States District Court for the Eastern District of New York and then close this case.

SO ORDERED.

Dated: May 13, 2008
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge